

REMARKS

Claims 1, 9, 26, 34, 42, 55, 61, 69, and 95 are amended, claim 66 is canceled, and no claims are added; as a result, claims 1-5, 7-10, 12-15, 17-18, 23-30, 32-35, 37-40, 42-43, 46-65, 67-70, 72-78, and 81-105 are now pending in this application.

No new matter has been added by the amendments to claims 1, 9, 26, 34, 42, 55, 61, 69, and 95. Support for the amendments to claims 1, 9, 26, 34, 55, 61, 69, and 95 is found throughout the specification, for example but not limited to the specification at page 9, lines 23 through page 11, line 10. Further support for the amendments to claims 34 and 42 is found, for example but not limited to, the specification at page 6, line 21-31.

Double Patenting Rejection

Claims 1-5, 7-10, 12-15, 17-18, 23-30, 32-35, 37-40, 42-43, 46-70, 72-78 and 81-105 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-45 of copending Application No. 11/458,637.

Claim 66 is canceled, to the rejection of claim 66 is moot.

Application No. 11/485,637 has been expressly abandoned. A copy of the Petition for Express Abandonment, mailed on December 10, 2007, is included with this response.

In view of the Petition for Express Abandonment of Application No. 11/458,637, Applicants respectfully request reconsideration and withdrawal of the nonstatutory obviousness-type double patenting rejection, and allowance of claims 1-5, 7-10, 12-15, 17-18, 23-30, 32-35, 37-40, 42-43, 46-65, 67-70, 72-78, and 81-105.

Objection to the Claims

Claims 48 was objected to under 37 CFR § 1.75 as being a substantial duplicate of claim 55.

Independent claim 55 has been amended to add the phrase, "wherein the measurements of the production data are taken over time and wherein the production data is weighted based on a time value." Applicants submit that at least this amendment to claim 55 overcomes the 37 CFR § 1.75 objection.

Applicants respectfully request withdrawal of the objection, and allowance of independent claims 48 and 55, and all claims depending from both independent claims 48 and 55.

§112 Rejection of the Claims

Claims 34-35, 37-40, 42-43, 46-47 and 66 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness.

Claim 66 is canceled, to the rejection of claim 66 is moot. Applicants respectfully traverse the rejection of claims 34-35, 37-40, 42-43, and 46-47.

Claims 34-35, 37-40, 42-43, 46-47, at least as now amended, meet the requirements under 35 U.S.C. § 112, second paragraph. By way of illustration, independent claim 34, as now amended, includes:

"collecting production data by taking at least one measurement from an electronic device manufacturing process directly related to **a machine used in the electronic device manufacturing process and taken at the time the electronic device manufacturing process is being performed on an item** and that is not measured on the item that is undergoing processing in the electronic device manufacturing process." (Emphasis added).

Applicants submit that claim 34, at least as now amended, meets the requirements under 35 U.S.C. § 112, second paragraph.

For reasons analogous to those stated above with respect to independent claim 34, independent claim 42 also meets the requirements under 35 U.S.C. § 112, second paragraph.

Claims 35, 37-40, 43, and 46-47 depend from one of independent claims 34 and 42, and because these independent claims meet the requirements under 35 U.S.C. § 112, second paragraph, the rejection of claims 35, 37-40, 43, and 46-47 has been overcome.

Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 112, second paragraph rejection, and allowance of claims 34-35, 37-40, 42-43, and 46-47.

§103 Rejection of the Claims

Claims 1-5, 7-10, 12-15, 26-30, 32-35, 37-40, 61-70, 72-76, and 95-101 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pasadyn et al. (Publication No. 2004/0029299, hereinafter "Pasadyn") in view of Funk (Publication No. 2005/0165731).

Claim 66 is canceled, to the rejection of claim 66 is moot. Applicants respectfully traverse the 35 U.S.C. § 103(a) rejection of claims 1-5, 7-10, 12-15, 26-30, 32-35, 37-40, 61-65, 67-70, 72-76, and 95-101.

Claims 1-5, 7-10, 12-15, 26-30, 32-35, 37-40, 61-65, 67-70, 72-76, and 95-101 are not obvious in view of the proposed combination of Pasadyn and Funk¹ because the proposed combination of Pasadyn and Funk fails to disclose or suggest all of the subject matter included in any given one of claims 1-5, 7-10, 12-15, 26-30, 32-35, 37-40, 61-65, 67-70, 72-76, and 95-101.

By way of illustration, independent claim 1, as now amended, recites,

"performing calculations on the production data including weighting the production data based on distance between a sampling point for the production data and a process location;
performing calculations on the non-production data including weighting the non-production data based on distance between a sampling point for the non-production data and a process location."

Applicants submit that at least this subject matter, as included in independent claim 1, is not disclosed or suggested by the proposed combination of Pasadyn or Funk. Thus, independent claim 1 is not obvious in view of the proposed combination of Pasadyn and Funk.

For reasons analogous to those stated above with respect to independent claim 1, the proposed combination of Pasadyn and Funk fails to disclose or suggest all of the subject matter included in independent claims 9, 26, 34, 61, and 69, at least as these independent claims are now amended. Therefore, independent claims 9, 26, 34, 61, and 69 are not obvious in view of the proposed combination of Pasadyn and Funk.

In a further example of subject matter included in the claims and not disclosed or suggested by the proposed combination of Pasadyn and Funk, independent claim 95 recites,

¹ Applicants to not admit or agree that any proposed combination of Pasadyn and Funk is possible.

"performing calculations on the production data, wherein the measurements of the production data are taken over time and wherein the production data is weighted based on a time value;
performing calculations on the non-production data including weighting the non-production data based on distance between a sampling point for the non-production data and a process location."

Applicants submit that at least this subject matter, as included in independent claim 95, is not disclosed or suggested by the proposed combination of Pasadyn and Funk. Thus, independent claim 95 is not obvious in view of the proposed combination of Pasadyn and Funk.

Claims 2-5, 7-8, 10, 12-15, 27-30, 32-33, 35, 37-40, 62-65, 67-68, 70, 72-76, and 96-101 depend from one of independent claims 1, 9, 26, 34, 61, 69, and 95, and so include all of the subject matter included in the independent claim from which they depend, and more. For at least the reasons stated above with respect to independent claims 1, 9, 26, 34, 61, 69, and 95, claims 2-5, 7-8, 10, 12-15, 27-30, 32-33, 35, 37-40, 62-65, 67-68, 70, 72-76, and 96-101 are not obvious in view of the proposed combination of Pasadyn and Funk.

Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection, and allowance of claims 1-5, 7-10, 12-15, 26-30, 32-35, 37-40, 61-65, 67-70, 72-76, and 95-101.

Reservation of Rights

In the interest of clarity and brevity, Applicants may not have addressed every assertion made in the Final Office Action. Applicants' silence regarding any such assertion does not constitute any admission or acquiescence. Applicants reserve all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicants do not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicants timely object to such reliance on Official Notice, and reserve all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicants reserve all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney (612) 349-9587 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date

2 Jan '08

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop After Final, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 2nd day of January 2008.

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Signature

